

REMARKS**Response to Claim Rejections Under 35 USC §112**

Claims 54 and 55 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended claims 54 and 55 to avoid this rejection.

Response to Claim Rejections Under 25 U.S.C. §103

Claims 35-38 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. (6,270,464), in view of Yamamoto (U.S. Pat. No. 4,847,049), as evidenced by Ronan et al. (U.S. Pat. No. 5,820,918), and further in view of Foerster et al. (6,228,055).

Applicants have carefully reviewed the cited prior art and believe that the combination of references do not teach all the features of these claims as amended above. Specifically, the combination does not teach a plurality of markers which has one which is ultrasonically detectable and another is radiographically detected. Moreover, the Examiner cites Ronan as teaching the radiopacity of silver, but this reference is directed to forming a low soluble silver salt within a porous body. In Ronan, there is no radiopaque metallic ion bound to the matrix, the low soluble salt is retained within the porosities.

Claims 44, 53, 54 and 56-64 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. ('464), in view of Foerster et al. ('055). Claim 44 has been cancelled. Claim 53 has been amended to require a first marker body which is ultrasonically detectable and another marker body which is

formed of cross-linked collagen and having a radiographically detectable metallic ion bound to the collagen. Claim 59 has been amended to require a first marker body which is ultrasonically detectable and another marker body which has a radiopaque element having a loop and free end which is embedded within the marker body. Claim 62 has been amended to require a plurality of remotely detectable with at least one of the bodies having a radiopaque element with a loop and free end which is embedded within the marker body. The combination of references proposed by the Examiner does not teach these features of the cited references.

Claim 55 was rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. ('464), in view of Foerster et al. ('055) as applied to claim 54 above, and further in view of Yamamoto ('049), as evidenced by Ronan et al. ('918). However, claim 55 has been amended to depend from claim 54 which in turn depends from claim 53. As discussed above, claim 53 calls for a plurality of marker bodies in which at least one of the bodies is ultrasonically detectable and another body is formed of cross-linked collagen and has radiographically detectable metallic ion bound to the cross-linked collagen. The cited combination of references does not teach or suggest the claimed features.

Claims 45-49 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. ('464), in view of Yamamoto ('049), as evidenced by Ronan et al. ('918), and further in view of Foerster et al. ('055). Claim 45 as amended above calls for a plurality of marker bodies, with one marker body which is ultrasonically detectable and another marker body formed of cross-linked collagen and having a

radiographically metallic ion bound to the cross-linked collagen. The combination of references do not teach this feature.

Claims 65-73, 78, 80-90, 92 and 95-101 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. ('464), in view of Foerster et al. ('055) and further in view of Voegele et al. (U.S. Pat. No. 6,261,302). Claim 65 depends from claim 53 which calls for a plurality of marker bodies, with one body being ultrasonically detectable and another body formed of cross-linked collagen and having a radiographically detectable metallic ion bound to the collagen. As discussed above Foerster et al and Fulton, III et al. fail to teach this feature. Voegele et al. also fails to teach this feature, so the combination of references fails to teach the features of claim 65. Claims 66-86 call for the cannula to have a ramp and the marker bodies to engage the ramp, move up the ramp and be discharged at the desired site. Voegele et al. is relied upon for the teaching of a ramp. However, the ramp is used to direct an inner catheter or cannula out the discharge port. Markers do not engage the ramp nor are they driven up the ramp by movement of a plunger as called for in claim 66.

Claims 74 and 75 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. ('464), in view of Foerster et al. ('055) and Voegele et al. ('302) as applied to claim 73 above, and further in view of Carter (U.S. Pat. No. 4,863,470) and Sinaiko (U.S. Pat. No. 3,341,417). However, as mentioned in the preceding paragraph, Fulton, III et al., Foerster et al. and Voegele et al. do not teach or suggest the markers being in engagement with and moved up the ramp as called for in the independent claims from which claims 74 and 75 depend.

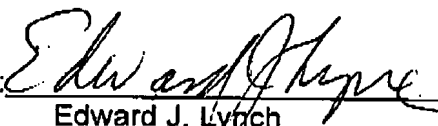
Claims 76, 77, 79, 91, 93 and 94 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. ('464), in view of Foerster et al. ('055) and Voegele et al. ('302) as applied to claims 72, 89 and 90 above, and further in view of Yamamoto ('049), as evidenced by Ronan et al. ('918). However, Fulton, III et al., Foerster et al. and Voegele et al. are deficient in teaching the features of claim 72, 89 and 90 and Yamamoto and Ronan et al. fail to make up for what features are not taught by these three references. See also the deficiencies of Ronan et al. discussed above.

Claims 107 and 108 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fulton, III et al. ('464), in view of Voegele et al. ('302). See the discussion in the preceding paragraphs.

Conclusions

Applicants believe that the pending claims as amended above define patentable subject matter. Reconsideration and an early allowance are respectfully requested.

Respectfully submitted,

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